

of moral performance from government officials than from other citizens, but demands for super-standards for government personnel are out of touch with reality and on occasion demagogic.

Within this context, the contribution of the Association of the Bar of the City of New York to the preservation of ethical standards in the federal service deserves and undoubtedly will receive the careful and respectful consideration which the eminence of the Committee and the distinction of its staff fully merits.

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**Model Business Corporation Act Annotated.** A Research Project of the American Bar Foundation, George C. Seward, Chairman Special Committee, James F. Spoerri, Project Director. Edited by the Committee on Corporate Laws, Leonard D. Adkins, Chairman, Section of Corporation, Banking, and Business Law of the American Bar Association. St. Paul: West Publishing Co., 1960. 3 Vols. Pp. xxxii, 724, 804, 390. \$32.50.

In these volumes the American Bar Foundation has given us something unique in the field of corporate law. Major credit should be given to James F. Spoerri, the Project Director, who is primarily responsible for the format, the research, and much of the draftmanship. Mr. Spoerri has had the co-operation and suggestions of the Committee on Corporate Laws of the American Bar Association to whom the drafts of various sections were sent for criticism, and particularly of a special subcommittee consisting of George C. Seward, Leonard D. Adkins, Whitney Campbell, Paul Carrington, and Ray Garrett. The value of the assistance of this committee cannot be overestimated.

The volumes are sturdily bound, the typography is unusually excellent and much of the simplicity and clarity of the Model Business Corporation Act has carried over into the annotations. Law Latin and Law French appear to have been eliminated so far as possible. The language of each annotation is simple, clear and unambiguous.

The third volume contains, in addition to an excellent index, the text of the Model Business Corporation Act with official forms for use under the act, a table of cases, and a master bibliography of works on corporate law.

The first two volumes comprise the annotations of the act. Each section (or subsection) is uniformly dealt with under the following headings: (1) Model Act Provision, (2) Statutory Provisions, (3) Cases, (4) Comment, (5) References, (6) Statutes.

Under the first heading the section or subsection of the Model Act is quoted without discussion.

The constitutional and statutory provisions of the fifty states, the District of Columbia and Puerto Rico are described under the second heading. The text

indicates which provisions are comparable and, under appropriate subheadings, the manner in which other provisions vary in their treatment of the same subject. This general discussion is supplemented by the sixth section of the annotations which gives the volume, chapter and section reference for the statutes discussed. It is intended to keep the volumes up to date by pocket parts.

I know of no other work which gives comparable treatment to the legislation of each state. This feature alone should make the volumes invaluable to legislators, bar associations and others interested in drafting statutes, as well as to the practicing lawyer who may be required to pass upon the value of cases in other states in the light of variations in the statutes.

Under the heading "Comment" there is a brief clarifying discussion (without citation of cases) of the theory underlying the section, collateral statutes to be consulted, references to the common law (particularly as set forth in Blackstone), and to the annotations of other sections of the Model Act.

Of major importance is the analysis in the third subdivision of the annotations ("Cases") of the principal decisions bearing on the subject matter of the section.

An annotated statute is necessarily limited in scope and there are many decisions in the field of corporate law which do not come within the scope of the statute. Some of them are important: *e.g.*, the cases on diversion of corporate opportunity by an officer or director. It is nevertheless surprising to find, by a rough comparison of the index of these volumes with the index of Fletcher's *Cyclopedia of the Law of Private Corporations*, how comprehensive, so far as concerns general subject matter, the annotations to these volumes are. In the matter of detail, however, it should be noted that Fletcher has five pages of references in its index under the heading "De Facto Corporations" as against one reference in the index to the *Model Business Corporation Act Annotated*, and that under the heading "Contracts" there are eight pages in the index to Fletcher as against seventeen lines in the index to the annotations of the Model Act.

The Preface to the American Bar Foundation volumes states, "We earnestly request our readers to note that the annotations are not intended to be exhaustive treatises." There can be no major quarrel with the plan of the work in this respect, but I would have been more pleased had the annotations been more exhaustive. Two examples will suffice.

Section 33 states among other things that the business and affairs of a corporation shall be managed by a board of directors. The Supreme Court of Wisconsin held in *Security Savings & Trust Co. v. Coos Bay Lumber & Coal Co.*<sup>1</sup> that a corporate bylaw prohibiting payment for services of any officer or employee, unless first consented to by the owners of three-fourths of the corporate stock, was void because it took the management of the corporation in

<sup>1</sup> 219 Wis. 647, 263 N.W. 187 (1935).

that respect from the directors. While the principle laid down in this case is by no means without qualification in the light of decisions in other states, it does concern a question that frequently confronts the practicing lawyer. A reference to the case in the annotations to this section would have been helpful.

Section 97 provides in part that, upon dissolution, the portion of the assets distributable to an unknown shareholder shall be deposited with the State Treasurer to be paid over to the shareholder upon proof of his right thereto. In the notes to this section, under the heading "Cases" the following statement is made: "None of general interest except cases involving escheat, not included in the scope of this annotation." If the scope of the annotation is to be narrow and literal, this statement is correct. There are, however, many cases which should be of interest to anyone called upon to deal with the section, among them the following three.

In 1950, the United States Supreme Court in *Standard Oil Co. v. New Jersey*,<sup>2</sup> held that due process was not violated by a statute escheating to New Jersey shares of stock in a domestic corporation and unpaid dividends declared thereon, even though the last known owners were nonresidents and the stock had been issued in another state where the dividends were still held. Two of the Justices dissented on the ground that the state where the last known owners were domiciled had a better claim to the abandoned stock. The fact that the unclaimed dividends deposited in New York were escheatable by New York was an added reason for the dissent.

In 1956, the New Jersey Supreme Court had before it in *State v. American Sugar Ref. Co.*<sup>3</sup> an escheat proceeding by New Jersey against a New Jersey corporation which had unclaimed dividends payable to stockholders whose last known addresses were in Massachusetts. In this case, Massachusetts intervened on the ground that the dividends had escheated to it. The court held that the situs of the unclaimed dividends was in New Jersey and that they escheated to New Jersey rather than to Massachusetts, basing its holding in part, however, upon the fact that the last known address of a stockholder is not necessarily his domicile.

In 1957, the Superior Court of New Jersey in *State v. F. W. Woolworth Co.*<sup>4</sup> held that a New York corporation authorized to do business in New Jersey was not entitled as against the state of New Jersey to unclaimed dividends payable to stockholders whose last known addresses were in New Jersey.<sup>5</sup>

The difference of opinion as to the scope of the annotations represented by

<sup>2</sup> 341 U.S. 428 (1951).

<sup>3</sup> 20 N.J. 286, 119 A.2d 767 (1956).

<sup>4</sup> 45 N.J. Super. 259, 132 A.2d 550 (1957).

<sup>5</sup> In a publication having the co-operation of the Section of Corporation, Banking and Business Law of the American Bar Association, the list of law review articles under Section 97 should have included the article by David N. McBride on *Unclaimed Dividends, Escheat Statutes and the Corporation Lawyer*, 14 BUS. LAW. 1062 (1959).

the foregoing discussion should not give rise to any implication that the volumes have not adequately fulfilled their purpose. The cases cited in the annotations are succinctly and clearly analyzed and are comprehensive and adequate within the limits fixed by the editors. They furnish a starting point for research which is what they purport to do. No case of major importance within the scope of the annotations has been omitted. For purposes of research there is an extraordinarily valuable supplement in the references given under the fifth heading. These references include the key number in the American Digest System, the section or page reference in text books, encyclopedic works and case books, pertinent references to annotated cases, references to general (non-legal) works, and (most valuable of all) to law review articles.

The collaboration between an exceptionally well qualified project director and members of a committee who are themselves experts in the field of corporate law has produced a work of unusual excellence, and one which it is to be hoped will inspire equally effective collaboration in other fields of the law.

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#### ERRATA

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Page 258. The source of the quotation, "Not lightly vacated is the verdict of quiescent years," has been identified by Frederick B. Wiener, member of the District of Columbia Bar, as *Coler v. Corn Exch. Bank*, 250 N.Y. 136, 141, 164 N.E. 882, 884 (1928) (Cardozo, C.J.).

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Page 508, note 22, line 3. *For* 127 *read* 128 n.15.

Page 519, note 85, line 7. *For* 132 *read* 130 n.24.